

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**CHARLOTTE MCGUIRE, individually and as )  
next of kin, of MICHAEL WALDEN, deceased, )**

**Plaintiff, )**

**v. )**

**Case No. 3:09-1107  
Judge Echols**

**HOLT PLUMBING COMPANY, LLC; )  
HOLT PLUMBING HEATING AND )  
COOLING, LLC; MARK ALLEN MERCER, )  
Agent/Employee of Holt Plumbing Heating and )  
Cooling, LLC; KISAN, LLC d/b/a The Drake )  
Motel, Inc.; THOMAS EDWARD NILES, )  
Agent/ Employee of Kisan, LLC d/b/a )  
The Drake Motel, Inc.; ROBERT SNITZER; )  
and PIEDMONT NATURAL GAS COMPANY, )  
INC. )**

**Defendants. )**

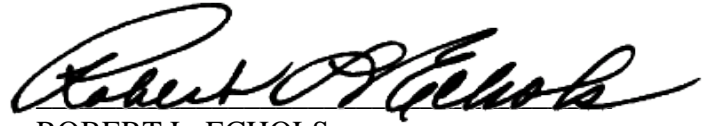
**ORDER**

This is a wrongful death action which invokes this Court's diversity jurisdiction. Defendants Thomas Edward Niles and Kisan, LLC have filed Motions to Dismiss for lack of subject matter jurisdiction (Docket Entry Nos. 8 & 10) in which they argue that complete diversity does not exist in this case because those Defendants are residents of Tennessee and the decedent was a Tennessee resident at the time of his death. In response, Plaintiff concurs that complete diversity does not exist in this case and requests that the Court dismiss the action pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure so that Plaintiff can refile this case in state court.

Given the filings, it is clear that this Court lacks subject matter jurisdiction over this action. Accordingly, the Court GRANTS Plaintiff's request (Docket Entry No. 13) and this case is hereby

DISMISSED WITHOUT PREJUDICE. Defendants' Motions to Dismiss (Docket Entry Nos. 8 & 10) are hereby DENIED AS MOOT.

It is SO ORDERED.

A handwritten signature in black ink, appearing to read "Robert L. Echols", written in a cursive style.

ROBERT L. ECHOLS  
UNITED STATES DISTRICT JUDGE